

## McElwain, Elizabeth

---

**From:** Hensle, Kristine (ASRC)  
**Sent:** Wednesday, November 29, 2006 9:17 AM  
**To:** McElwain, Elizabeth  
**Subject:** Litigation Search for USP 5894079.

Good morning Examiner McElwain,

I did found litigation for U.S. Patent No. 5894079.

My steps:

- 1) I performed a search on the patent in Lexis CourtLink for any open and closed dockets or closed cases; two found.
- 2) I performed a search in Lexis in the Federal Courts and Administrative Materials databases for any cases; three found; fulltext included. (2 were the dockets found in Courtlink.)
- 3) I performed a search in Lexis in the IP Journal and Periodicals database for any articles on the patent; none found.
- 4) I performed a search in Lexis in the news databases for any articles about the patent or any articles about litigation on this patent; nine found; 8 relevant. Their summaries are included in the search results.
- 5) I performed a search in Questel-Orbit's PLUSPAT file.
- 6) An electronic copy of your litigation search has been sent to SCORE and will be available as early as tomorrow.

Please follow the instructions below to view results via SCORE

To access SCORE click on the link:  
<http://es/ScoreAccessWeb/>

type in SN in Identification Number box-> submit  
Click on the Number of Other Mega Items  
Click on Download

If I can assist you further, please do not hesitate to contact me.

Best regards,  
Kristine Hensle  
Librarian  
ASRC - Contractor for STIC  
Biotechnology Chemical Library - A179  
USPTO  
571-272-4161 - AM and voicemail  
571-272-2520 (Biotechnology/ Chemical Library) - PM  
Fax: 571-273-0225

Courtlink, LexisNexis and Questel-Orbit Litigation Search for USP 5894079, Case: 90/005,892

11/28/06

The screenshot shows a web browser window titled "LexisNexis CourtLink - Patent Search - Microsoft Internet Explorer provided by USPTO". The address bar shows the URL "https://courtlink.lexisnexis.com/Search/PatentSearch\_Criteria.aspx". The page header includes "LexisNexis CourtLink" and a welcome message "Welcome Kristine Hensle". A navigation bar contains links for "MyCourtLink", "Search", "Dockets & Documents", "Track", "Alert", "Strategic Profiles", and "MyAccount". The "Search" link is selected, leading to the "Patent Search" page. The page contains a search form with the following fields and options:

- Patent Search** (Section Header)
- Enter a patent number or class, or select a district court** (Instructions)
- Patent Number:** [info] (Field with value "5894079")
- Or** (Radio button)
- U.S. Class:** [info] (Field)
- Subclass (optional):** [info] (Field)
- Or** (Radio button)
- District Court:** [info] (Dropdown menu with value "-- Select --")
- Patent class/subclass definitions** (Link)
- Cases filed between these dates (optional):** (Section Header)
- From:** [info] (Date field with value "MM/DD/YYYY")
- To:** [info] (Date field with value "MM/DD/YYYY")
- Note:** some patent cases from as early as the 1980s have links to patent numbers. However, comprehensive data begins on 1/1/2002.
- Client Matter Codes:** [info] (Field)
- Previous Codes:** [info] (Field)

The bottom of the browser window shows a taskbar with several open applications: "Start", "Internet Explorer", "Microsoft Outlook", "PressDisplay.com - News...", "LexisNexis CourtLink", "Litigation Search for USP...", and "Internet". The system clock shows "4:30 PM".

Searched Courtlink for the patent.

LexisNexis CourtLink - Patent Search - Result List - Microsoft Internet Explorer provided by USPTO

File Edit View Favorites Tools Help

Back Forward Stop Home Search Favorites Print Mail

Address [https://courtlink.lexisnexis.com/Search/PatentSearch\\_ResultList.aspx?SearchPackageID=1483367&SearchID=10256197](https://courtlink.lexisnexis.com/Search/PatentSearch_ResultList.aspx?SearchPackageID=1483367&SearchID=10256197) Go Links SnapIt

Google  Go Bookmarks 56 blocked Check AutoLink AutoFill Send to Settings

Order Documents Available Courts Total Litigator Lexis.com Sign Out Learning Center

LexisNexis CourtLink

Welcome Kristine Hensle!

My CourtLink Search Dockets & Documents Track Alert Strategic Profiles My Account

Search > Patent Search > Litigation involving patent 5894079

Click a docket number below to view a docket.

**Patent Search Results**

Results: 2 cases and their patents, totaling 2 items.

[Re-run Search](#)  
This search was run on 11/28/2006

[Update Docket\(s\)](#) [Email Docket\(s\)](#) [Edit Search](#) [Printer Friendly List](#) [Email List](#) [Customize List](#)

Patent	Class	Subclass	Description	Court	Docket Number	Filed	Date Retrieved
<input type="checkbox"/> 5,894,079	800	250	Pod-Ners, LLC v. McCarty et al	US-DIS-COD	1:05cv1866	9/26/2005	12/6/2005
<input type="checkbox"/> 5,894,079	800	250	Pod-Ners LLC v. Tutuli Produce Corp, et al	US-DIS-CACD	2:99cv10172	10/5/1999	11/5/2004

[Update Docket\(s\)](#) [Email Docket\(s\)](#) [Printer Friendly List](#) [Email List](#) [Customize List](#)

[Pricing](#) [Privacy](#) [Master Services Agreement](#)

Copyright © 2006 LexisNexis, a division of Reed Elsevier Inc. All rights reserved.

Start [Inbox - Microsoft Outlook](#) [PressDisplay.com - News...](#) [LexisNexis CourtLink](#) [Litigation Search for USP...](#) Internet 4:51 PM

2 cases were found; updated dockets attached below.

---

## US District Court Civil Docket

U.S. District - California Central  
(Western Division)

**2:99cv10172**

### Pod-Ners Llc v. Tutuli Produce Corp, et al

This case was retrieved from the court on Tuesday, November 28, 2006

---

<b>Date Filed:</b>	<b>10/05/1999</b>	<b>Class Code:</b>	<b>(Mcx), CLOSED</b>
<b>Assigned To:</b>	<b>Judge Consuelo B Marshall</b>	<b>Closed:</b>	<b>Yes</b>
<b>Referred To:</b>	<b>Magistrate Judge James W McMahon</b>	<b>Statute:</b>	<b>35:271</b>
<b>Nature of suit:</b>	<b>Patent (830)</b>	<b>Jury Demand:</b>	<b>Plaintiff</b>
<b>Cause:</b>	<b>Patent Infringement</b>	<b>Demand Amount:</b>	<b>\$0</b>
<b>Lead Docket:</b>	<b>None</b>	<b>NOS Description:</b>	<b>Patent</b>
<b>Other Docket:</b>	<b>None</b>		
<b>Jurisdiction:</b>	<b>Federal Question</b>		

#### Litigants

Pod-Ners Llc  
Plaintiff

#### Attorneys

Cynthia A Lock  
[COR LD NTC]  
McDermott Will & Emery  
2049 Century Park E, 34TH FL  
Los Angeles, CA 90067  
USA  
310-284-6138

Daniel N Fishman  
[COR LD NTC]  
Chrisman Bynum & Johnson  
1900 15TH St  
Boulder, CO 80302  
USA  
303-546-1300

David J Lee  
[COR LD NTC]  
Chrisman Bynum & Johnson  
1900 15TH St  
Boulder, CO 80302  
USA  
303-546-1300

Joon M Khang  
[COR LD NTC]  
Oppenheimer Wolff & Donnelly

Tutuli Produce Corp Inc  
Defendant

2029 Century Park E  
38TH FL  
Los Angeles, CA 90067-3024  
USA  
310-788-5000

Lisa V Mueller  
[COR LD NTC]  
[Term: 11/08/2000]  
Rockey Milnamow & Katz  
Two Prudential Plaza  
Ste 4700  
Chicago, IL 60601  
USA  
312-616-5400

Mark P Wine  
[COR LD NTC]  
McDermott Will & Emery  
2049 Century Park E, 34TH FL  
Los Angeles, CA 90067-3208  
USA  
310-277-4110  
Email: Mwine@mwe.com

Peter W James  
[COR LD NTC]  
[Term: 11/08/2000]  
Baker & Hostetler  
333 S Grand Ave, Ste 1800  
Los Angeles, CA 90071-1523  
USA  
213-975-1600

Andrew Eliseev  
[COR LD NTC]  
Greenberg Traurig  
11355 West Olympic Boulevard  
Los Angeles, CA 90064-1614  
USA  
310-312-4000

E Anthony Figg  
[COR LD NTC]  
[Term: 11/16/2004]  
Rothwell Figg Ernst & Kurz  
555 13TH St NW  
Ste 701 East  
Washington, DC 20004  
USA  
202-783-6040

Edward M Jordan  
[COR LD NTC]  
[Term: 11/16/2004]  
Manatt Phelps & Phillips  
11355 W Olympic Blvd  
Los Angeles, CA 90064-1614  
USA  
310-312-4000  
Fax: 310-914-5733

Jill M Pietrini  
[COR LD NTC]  
[Term: 11/16/2004]

Manatt Phelps & Phillips  
11355 W Olympic Blvd  
Los Angeles, CA 90064-1614  
USA  
310-312-4000  
Email: Jpietrini@manatt.com

Kathryn L Clune  
[COR LD NTC]  
Greenberg Traurig  
800 Connecticut Avenue NW, Suite 500  
Washington, DC 20006  
USA  
202-331-3100  
Email: Clunek@gtlaw.com

Mark Lee Hogge  
[COR LD NTC]  
Greenberg Traurig  
800 Connecticut Avenue NW, Suite 500  
Washington, DC 20006  
USA  
202-331-3100  
Email: Hoggem@gtlaw.com

Mark S Lee  
[COR LD NTC]  
Manatt Phelps & Phillips  
11355 W Olympic Blvd  
Los Angeles, CA 90064-1614  
USA  
310-312-4000

Robert J Jondle  
[COR LD NTC]  
Figg Ernst & Kurz  
13906 Gold Circle  
Ste 204  
Omaha, NE 68144  
USA  
402-333-1550

Rebecca Gilliland  
Defendant

Andrew Eliseev  
[COR LD NTC]  
Greenberg Traurig  
11355 West Olympic Boulevard  
Los Angeles, CA 90064-1614  
USA  
310-312-4000

E Anthony Figg  
[COR LD NTC]  
[Term: 11/16/2004]  
Rothwell Figg Ernst & Kurz  
555 13TH St NW  
Ste 701 East  
Washington, DC 20004  
USA  
202-783-6040

Edward M Jordan  
[COR LD NTC]  
[Term: 11/16/2004]  
Manatt Phelps & Phillips  
11355 W Olympic Blvd

Los Angeles, CA 90064-1614  
USA  
310-312-4000  
Fax: 310-914-5733

Jill M Pietrini  
[COR LD NTC]  
[Term: 11/16/2004]  
Manatt Phelps & Phillips  
11355 W Olympic Blvd  
Los Angeles, CA 90064-1614  
USA  
310-312-4000  
Email: Jpietrini@manatt.com

Kathryn L Clune  
[COR LD NTC]  
Greenberg Traurig  
800 Connecticut Avenue NW, Suite 500  
Washington, DC 20006  
USA  
202-331-3100  
Email: Clunek@gtlaw.com

Mark Lee Hogge  
[COR LD NTC]  
Greenberg Traurig  
800 Connecticut Avenue NW, Suite 500  
Washington, DC 20006  
USA  
202-331-3100  
Email: Hoggem@gtlaw.com

Mark S Lee  
[COR LD NTC]  
Manatt Phelps & Phillips  
11355 W Olympic Blvd  
Los Angeles, CA 90064-1614  
USA  
310-312-4000

Tutuli Produce Corp Inc  
Counter Claimant

Andrew Eliseev  
[COR LD NTC]  
Greenberg Traurig  
11355 West Olympic Boulevard  
Los Angeles, CA 90064-1614  
USA  
310-312-4000

Edward M Jordan  
[COR LD NTC]  
[Term: 11/16/2004]  
Manatt Phelps & Phillips  
11355 W Olympic Blvd  
Los Angeles, CA 90064-1614  
USA  
310-312-4000  
Fax: 310-914-5733

Jill M Pietrini  
[COR LD NTC]  
Manatt Phelps & Phillips  
11355 W Olympic Blvd  
Los Angeles, CA 90064-1614  
USA

Pod-Ners Llc  
Counter Defendant

310-312-4000  
Email: Jpietrini@manatt.com

Kathryn L Clune  
[COR LD NTC]  
Greenberg Traurig  
800 Connecticut Avenue NW, Suite 500  
Washington, DC 20006  
USA  
202-331-3100  
Email: Clunek@gtlaw.com

Mark Lee Hogge  
[COR LD NTC]  
Greenberg Traurig  
800 Connecticut Avenue NW, Suite 500  
Washington, DC 20006  
USA  
202-331-3100  
Email: Hoggem@gtlaw.com

Mark S Lee  
[COR LD NTC]  
Manatt Phelps & Phillips  
11355 W Olympic Blvd  
Los Angeles, CA 90064-1614  
USA  
310-312-4000

Joon M Khang  
[COR LD NTC]  
Oppenheimer Wolff & Donnelly  
2029 Century Park E  
38TH FL  
Los Angeles, CA 90067-3024  
USA  
310-788-5000

Lisa V Mueller  
[COR LD NTC]  
[Term: 11/08/2000]  
Rockey Milnamow & Katz  
Two Prudential Plaza  
Ste 4700  
Chicago, IL 60601  
USA  
312-616-5400

Mark P Wine  
[COR LD NTC]  
McDermott Will & Emery  
2049 Century Park E, 34TH FL  
Los Angeles, CA 90067-3208  
USA  
310-277-4110  
Email: Mwine@mwe.com

Peter W James  
[COR LD NTC]  
[Term: 11/08/2000]  
Baker & Hostetler  
333 S Grand Ave, Ste 1800  
Los Angeles, CA 90071-1523  
USA  
213-975-1600



Cynthia A Lock  
[COR LD NTC]  
McDermott Will & Emery  
2049 Century Park E, 34TH FL  
Los Angeles, CA 90067  
USA  
310-284-6138

Daniel N Fishman  
[COR LD NTC]  
Chrisman Bynum & Johnson  
1900 15TH St  
Boulder, CO 80302  
USA  
303-546-1300

David J Lee  
[COR LD NTC]  
Chrisman Bynum & Johnson  
1900 15TH St  
Boulder, CO 80302  
USA  
303-546-1300

Date	#	Proceeding Text
10/05/1999	1	COMPLAINT filed Summons(es) Issued referred to Discovery James W. McMahon (bg) (Entered: 10/07/1999)
10/05/1999	--	NOTICE Pro Hac Vice application mailed to attorney Lisa V Mueller (bg) (Entered: 10/07/1999)
10/07/1999	2	ORDER by Judge Consuelo B. Marshall re Crt expects strict compliance w/the L/R's & FRCP (jp) (Entered: 10/07/1999)
10/19/1999	3	RETURN OF SUMMONS and proof of service of S/C executed upon defendant Rebecca Gilliland on 10/13/99 personally. (twdb) (Entered: 10/20/1999)
10/19/1999	--	LODGED/PROPOSED appl of non resident atty to appear in specific case & ORDER submitted by plaintiff Pod-Ners LLC .(FWD TO CRD) (twdb) (Entered: 10/20/1999)
10/19/1999	--	FINANCIAL ENTRY re [0-1] pro hac vice fee paid submitted by attorney Lisa V. Mueller (jp) (Entered: 04/04/2000)
11/03/1999	4	STIPULATION filed to extend time to answer complaint [1-1] have up to & incl 12/2/99 as to defendants Tutuli Produce Corp, Rebecca Gilliland (jp) (Entered: 11/05/1999)
11/04/1999	6	NOTICE by plaintiff Pod-Ners LLC to cnsi (jag) (Entered: 11/09/1999)
11/05/1999	5	APPLICATION AND ORDER of Non-Resident Attorney to Appear in a Specific Case filed for plaintiff Pod-Ners LLC by Lisa V Mueller. Designating Peter W James as local counsel. Approved by Judge Consuelo B. Marshall . (Fee pd) (jp) (Entered: 11/08/1999)
12/02/1999	7	ANSWER filed by defendant Tutuli Produce Corp, defendant Rebecca Gilliland to complaint [1-1] (bg) (Entered: 12/06/1999)
12/02/1999	7	COUNTERCLAIM by defendant Tutuli Produce Corp against plaintiff Pod-Ners LLC (bg) (Entered: 12/06/1999)
12/02/1999	8	NOTICE by defendant Tutuli Produce Corp, counter-claimant Tutuli Produce Corp, defendant Rebecca Gilliland of interested parties (bg) (Entered: 12/06/1999)
12/02/1999	--	NOTICE Pro hac vice application mailed to attorney E Anthony Figg, Robert J Jondle (bg) (Entered: 12/06/1999)

12/09/1999	9	NOTICE TO COUNSEL RE Copyright, Patent and Trademark Reporting Requirements filed (jp) (Entered: 12/10/1999)
12/20/1999	--	REPORT ON THE FILING OF AN ACTION REGARDING Patent or Trademark (cc: form mailed to Washington, D.C.)(Opening) (bp) (Entered: 12/21/1999)
12/21/1999	10	ANSWER TO COUNTERCLAIM [7-1] by counter-defendant Pod-Ners LLC (bp) (Entered: 12/22/1999)
12/29/1999	11	APPLICATION AND ORDER of Non-Resident Attorney to Appear in a Specific Case filed for defendant Tutuli Produce Corp by Robert J Jondle. Designating Jill M Pietrini as local counsel. Approved by Judge Consuelo B. Marshall . (Fee pd) (bg) (Entered: 01/03/2000)
01/06/2000	13	JOINT REPORT OF EARLY MEETING OF COUNSEL filed. Estimated length of trial 2 1/2 weeks (rrey) (Entered: 01/10/2000)
01/07/2000	12	MINUTES: On the crt's own mot, this case is set for a status hearing set on 9:30 3/30/00 cnsl are to fl a jt stat rpt on or bef 3/13/00 by Judge Consuelo B. Marshall CR: N/A (bp) (Entered: 01/07/2000)
02/28/2000	14	STIPULATION and ORDER by Judge Consuelo B. Marshall for protective order (see doc for fur detail) (jp) (Entered: 02/29/2000)
03/01/2000	--	LODGED/PROPOSED appl of non resident atty to appear in specific case & ORDER submitted by defendant Tutuli Produce Corp, defendant Rebecca Gilliland .(FWD TO CRD) (twdb) (Entered: 03/02/2000)
03/09/2000	15	APPLICATION AND ORDER of Non-Resident Attorney to Appear in a Specific Case filed for defendant Tutuli Produce Corp, defendant Rebecca Gilliland by E Anthony Figg. Designating Jill M Pietrini as local counsel. Approved by Judge Consuelo B. Marshall (Fee pd) (jp) (Entered: 03/10/2000)
03/13/2000	16	JOINT STATUS REPORT (bg) (Entered: 03/15/2000)
03/20/2000	17	APPLICATION by plaintiff Pod-Ners LLC to reset status conference (jp) (Entered: 03/21/2000)
03/30/2000	18	ORDER CONTINUING STATUS CONF by Judge Consuelo B. Marshall status conference is continued to 4/26/00 @ 9:30 a.m. (jp) (Entered: 04/03/2000)
04/25/2000	19	MINUTES before Judge Consuelo B. Marshall: Status conf is continued to 5/2/00 @ 10:00 CR: N/A (scan) (jp) (Entered: 04/25/2000)
04/26/2000	21	NOTICE OF DISCREPANCY AND ORDER by Judge Consuelo B. Marshall; IT IS HEREBY ORD the Application for Dismissal & Order is NOT to be fld, but instead REJECTED, & is ORD rtn to cnsl (Dismissal must shall be purs to ntc mot or stip) (jp) (Entered: 05/02/2000)
04/27/2000	20	MINUTES before Judge Consuelo B. Marshall: status conference is continued to 5/4/00 @ 9:30 CR: N/A (scan) (jp) (Entered: 04/27/2000)
05/02/2000	22	MINUTES by Judge Consuelo B. Marshall: status conference will be heard @ 1:30 on 5/4/00 CR: N/A (scan) (jp) (Entered: 05/03/2000)
05/04/2000	23	MINUTES: ; Conf held; discovery ddl set on 11/30/00; mots shall be ntc for hrg on or before 12/11/00; pretrial conference set on 2:30 1/29/01; 4 day jury trial set on 10:00 3/6/01 ; defense cnsl shall ldg a propsd ord reflectng the Crt's oral ord on or before 5/8/00 by Judge Consuelo B. Marshall CR: Carmen Reyes (ir) (Entered: 05/08/2000)
05/09/2000	24	ORDER re status conference by Judge Consuelo B. Marshal. Discov shall be cmpltld by 11/30/00; last day to hear motions shall be 12/11/00 & all motion shall be set for 10:00 am; ptc shall be held on 1/29/01 @ 2:30 pm; This case shall be tried by Jury on 3/6/01 @ 10:00 am. The crt has allowed 4 days for the trial (bg) (Entered: 05/10/2000)
08/03/2000	25	NOTICE OF MOTION AND MOTION by plaintiff Pod-Ners LLC for leave to withdraw atty , for a limited stay of proceedings ; motion hearing set for 10:00 9/11/00 Lodged prop ord (bg) (Entered: 08/03/2000)

08/04/2000 26 STIPULATION and ORDER by Judge Consuelo B. Marshall that the ddl for (1) filing & srv any motions/stip to dismiss to cmp or the cntclm, (2) filing & srv any mots or stip to amd the cmp or cntclm, & (3) resolving any discov disputes re dfts 1st set of written discov reqs may be cont to 10/5/00 (jp) (Entered: 08/07/2000)

08/21/2000 27 NOTICE OF MOTION AND MOTION by defendants Tutuli Produce Corp, Rebecca Gilliland, counter-claimant Tutuli Produce Corp for leave to file amended answer & counterclaims ; motion hearing set for 10:00 9/11/00; Lodged order & amd answer (jp) (Entered: 08/22/2000)

08/21/2000 28 MEMORANDUM OF POINTS & AUTH by defendants Tutuli Produce Corp, Rebecca Gilliland, counter-claimant Tutuli Produce Corp in suppt of motion for leave to file amended answer & counterclaims [27-1] (jp) (Entered: 08/22/2000)

08/21/2000 29 DECLARATION of JILL M. PIETRINI by defendants Tutuli Produce Corp, Rebecca Gilliland, counter-claimant Tutuli Produce Corp in suppt of motion for leave to file amended answer & counterclaims [27-1] (jp) (Entered: 08/22/2000)

08/24/2000 30 OPPOSITION by defendants Tutuli Produce Corp, Rebecca Gilliland, counter-defendant Pod-Ners LLC to motion for leave to withdraw atty [25-1], and for a limited stay of proceedings [25-2] (jp) (Entered: 08/25/2000)

08/24/2000 31 MINUTES before Judge Consuelo B. Marshall: The Crt STRIKES the fol mots for failure to comply w/Local Rule 7.4.1.: (1) Plf's mot for lv to w/draw atty [25-1], for a limited stay of procs [25-2], and (2) Defendants mot for lv to file amd ans & cntclms [27-1]; Cnsl may re-ntc the mot(s) after a valid meet & confer in accordance w/the time provisions of the Rule. Cnsl for non-movants are advised that the Crt will issue an OSC RE Sancs, if it appears that cnsl for non-movants have failed to resp to good faith attempts by the movants to meet & confer CR: N/P (cc: Ptys) (SEND) (jp) (Entered: 08/28/2000)

09/01/2000 32 NOTICE OF MOTION AND MOTION by defendants Tutuli Prod Corp, Rebecca Gilliland, counter-claimant Tutuli Produce Corp for leave to file amended answer & counterclaims ; motion hearing set for 10:00 9/25/00; Lodged prospd 1st amd ans; Prospd ord (jp) (Entered: 09/05/2000)

09/01/2000 33 MEMORANDUM OF POINTS & AUTH by defendants Tutuli Produce Corp, Rebecca Gilliland, counter-claimant Tutuli Produce Corp of motion for leave to file amended answer & counterclaims [32-1] (jp) (Entered: 09/05/2000)

09/01/2000 34 DECLARATION of JILL M. PIETRINI by defendants Tutuli Prod Corp, Rebecca Gilliland, counter-claimant Tutuli Produce Corp in suppt of motion for leave to file amended answer & counterclaims [32-1] (jp) (Entered: 09/05/2000)

09/01/2000 35 AMENDED NOTICE OF MOTION AND MOTION by plaintiff Pod-Ners LLC for leave to withdraw , and to limited stay of proceedings stmt purs to L/R 7.4.1; Decl of Lisa V. Mueller; motion hearing set for 9/25/00; Lodged prospd order (jp) (Entered: 09/05/2000)

09/07/2000 36 MINUTES before Judge Consuelo B. Marshall: the following motions are SUBMITTED w/out oral arg: Motion for leave to withdraw [35-1], and a limited stay of proceedings [35-2], dfts motion for leave to file amended answer & counterclaims [32-1] CR: N/A (SEND) (jp) (Entered: 09/07/2000)

09/11/2000 37 STATEMENT OF NON-OPPOSITION by defendants, counter-claimant Rebecca Gilliland, Tutuli Produce Corp to amended motion for leave to withdraw [35-1], and a limited stay of proceedings [35-2] & request for cont of pretrial dates (jp) (Entered: 09/11/2000)

09/11/2000 37 \*\*\*\*\*REQUEST by defendants, counter-claimant Intuli Produce Corp, Rebecca Gilliland for continuance of pretrial dates (jp) (Entered: 09/11/2000)

11/08/2000 38 FIRST AMENDED ANSWER [7-1] by defendants Tutuli Produce Corp, Rebecca Gilliland (jp) (Entered: 11/08/2000)

11/08/2000 38 \*\*\*\*\*AMENDED COUNTERCLAIM [7-1] by counter-claimant Tutuli Produce Corp; summons not issued (jp) (Entered: 11/08/2000)

11/08/2000 39 ORDER by Judge Consuelo B. Marshall that those firms are hereby permitted to withdraw counsels Lisa V Mueller, Peter W James for Pod-Ners LLC [35-1], effective upon the entry of

this Ord. This actn is hereby stayed [35-2] until 12/8/00, to permit Pod-Ners LLC to obtain new cnsl, present cnsl to give ntc as required by L/R 2.8.2.3, & advise P of L/R 2.9.1 (send) (jp) (Entered: 11/09/2000)

11/08/2000 40 ORDER by Judge Consuelo B. Marshall that dfts motion for leave to file amended answer & counterclaims [32-1] is GRANTED; IT IS FUR ORD that the 1st amd ans of dfts & Amd cntclm is deemed fld as of 11/8/00; & IT IS FUR ORD that plf shall have until 12/18/00 in which to file a resp to the 1st amd ans of dfts Tutuli Prod Corp & Rebecca Gilliland (send) (jp) (Entered: 11/09/2000)

12/06/2000 41 APPEARANCE for plaintiff, counter-defendant Pod-Ners LLC by attorney Cynthia Alison Lock (jp) (Entered: 12/08/2000)

12/18/2000 42 REPLY TO AMENDED COUNTERCLAIM [38-1] by counter-defendant Pod-Ners LLC (bg) (Entered: 12/19/2000)

01/22/2001 43 MINUTES: Status Conference On Crt's own Mot, pretrial conference is cont to 11:00 1/31/01 by Judge Consuelo B. Marshall CR: n/a (SEND) (ir) (Entered: 01/23/2001)

01/22/2001 -- LODGED APPL OF NON-RESIDENT to appear in a specific case submitted by plaintiff/ counter-defendant Pod-Ners LLC (FWD TO CRD) (ir) (Entered: 01/24/2001)

01/22/2001 -- LODGED APPLICATION OF NON-RESIDENT ATTY/PROPOSED ORDER submitted by plaintiff Pod-Ners LLC (phv atty David J Lee) (FWD TO CRD) (mch) (Entered: 01/24/2001)

01/22/2001 -- LODGED APPLICATION OF NON-RESIDENT ATTY/PROPOSED ORDER submitted by plaintiff Pod-Ners LLC (FWD TO CRD) (mch) (Entered: 01/24/2001)

01/24/2001 44 APPLICATION AND ORDER of Non-Resident Attorney to Appear in a Specific Case filed for plaintiff/ counter-defendant Pod-Ners LLC by Daniel N Fishman. Designating Cynthia A Lock as local counsel. Approved by Judge Consuelo B. Marshall. (Fee pd) (ir) (Entered: 01/25/2001)

01/24/2001 45 APPLICATION AND ORDER of Non-Resident Attorney to Appear in a Specific Case filed for plaintiff/counter-defendant Pod-Ners LLC by David J Lee. Designating Cynthia A Lock as local counsel. Approved by Judge Consuelo B. Marshall (Fee pd) (ir) (Entered: 01/25/2001)

01/25/2001 46 STIPULATION and ORDER by Judge Consuelo B. Marshall ; discovery cut-off cont to 1/25/02; pretrial conference cont to 3:00 4/23/02; jury trial cont to 10:00 5/29/02 ; Mot hrg cut-off date 2/11/02 (SEND) (ir) (Entered: 01/26/2001)

06/28/2001 47 NOTICE OF MOTION AND MOTION by plaintiff Pod-Ners LLC to stay pending Resolution of US Supreme Crt & US Patent Office proceedings ; motion hearing set for 10:00 8/13/01; Lodged Propds Ord (ir) (Entered: 06/28/2001)

07/09/2001 -- PLACED IN FILE - NOT USED; Stip req to cont hrg on Plf's mot to stay; [Propds] Ord thereon; ldg 7/6/01 by Dfts & Cntclms (ir) (Entered: 07/10/2001)

07/09/2001 48 MINUTES: Plf's mot to stay; Stip to cont hrg on Plf's mot to stay is denied; Opp to mot to stay shall be fld on or before 7/23/01, replies if any shall be fld on or before 7/30/01. Plf's motion to stay pending Resolution of US Supreme Crt & US Patent Office proceedings [47-1] shall stand SUBMITTED as of 7/30/01 by Judge Consuelo B. Marshall CR: n/a (SEND) (ir) (Entered: 07/10/2001)

07/23/2001 -- Text not available. (Entered: 07/24/2001)

07/23/2001 49 OPPOSITION by dfts Tutuli Produce Corp, Rebecca Gilliland to motion to stay pending Resolution of US Supreme Crt & US Patent Office proceedings [47-1] (el) (Entered: 07/24/2001)

07/23/2001 50 DECLARATION of Jill Pietrini in opp by Tutuli Produce Corp, Rebecca Gilliland re motion to stay pending Resolution of Supreme Crt & US Patent Office proceedings [47-1] (el) (Entered: 07/24/2001)

07/23/2001 51 DECLARATION of Rebecca Gilliland in opp by Tutuli Produce Corp, Rebecca Gilliland re motion to stay pending of US Supreme Crt & US Patent Office proceedings [47-1] (el) (Entered: 07/24/2001)

07/30/2001	52	REPLY BRIEF by plaintiff Pod-Ners LLC, counter-defendant Pod-Ners LLC re motion to stay pending Resolution of Supreme Crt & US Patent Office proceedings [47-1] (el) (Entered: 08/01/2001)
07/30/2001	53	DECLARATION of David J Lee in suppt by plaintiff Pod-Ners LLC, counter-defendant Pod-Ners LLC re motion to stay pending Resolution of US Supreme Crt & US Patent Office proceedings [47-1] (el) (Entered: 08/01/2001)
07/30/2001	54	DECLARATION of Larry M Proctor in suppt by plaintiff Pod-Ners LLC, counter-defendant Pod-Ners LLC re motion to stay pending Resolution of US Supreme Crt & US Patent Office proceedings [47-1] (el) (Entered: 08/01/2001)
08/17/2001	55	ORDER by Judge Consuelo B. Marshall granting plf's motion to stay pending Resolution of US Supreme Crt & US Patent proceedings [47-1] terminating case (MD JS-6) (ENT 8/20/01) Send/Ntc (el) (Entered: 08/20/2001)
11/06/2001	--	REPORT ON THE DETERMINATION OF AN ACTION REGARDING patents (cc: form mailed to Washington, D.C.)(Closing) (twdb) (Entered: 11/06/2001)
09/29/2004	56	APPLICATION AND ORDER of Non-Resident Attorney to Appear in a Specific Case by Mark Lee Hogge for Tutuli Produce Corp Inc; Rebecca Gilliland and Tutuli Produce Corp Inc, designating Andrew Eliseev as local counsel. Fee paid. Approved by Judge Consuelo B. Marshall.(lc, ) (Entered: 09/30/2004)
09/29/2004	57	APPLICATION AND ORDER of Non-Resident Attorney to Appear in a Specific Case by Kathryn L Clune for Tutuli Produce Corp Inc; Rebecca Gilliland and Tutuli Produce Corp Inc, designating Andrew Eliseev as local counsel. Fee paid. Approved by Judge Consuelo B. Marshall.(lc, ) (Entered: 09/30/2004)
09/29/2004	--	FAX number for Attorney Kathryn L Clune, Mark Lee Hogge is 202-331-3101. (lc, ) (Entered: 09/30/2004)
09/29/2004	--	FAX number for Attorney Andrew Eliseev is 310-586-7800. (lc, ) (Entered: 09/30/2004)
11/10/2004	62	DECLARATION of Kathryn L Clune filed by Defendant Tutuli Produce Corp Inc. (yc, ) (Entered: 11/19/2004)
11/10/2004	63	DECLARATION of Andrew Eliseev filed by Defendants Rebecca Gilliland, Tutuli Produce Corp Inc. (yc, ) (Entered: 11/19/2004)
11/16/2004	58	Substitution of Attorney filed attorney Andrew Eliseev of Greenberg Traurig in place and stead of attorney E Anthony Figg by Judge Consuelo B. Marshall. (yc, ) (Entered: 11/18/2004)
11/16/2004	59	Substitution of Attorney filed. Andrew Eliseev of Greenberg Traurig in place and stead of attorney Jill M Pietrini by Judge Consuelo B. Marshall. (yc, ) (Entered: 11/18/2004)
11/16/2004	60	Substitution of Attorney filed by attorney Kathryn L Clune of Greenberg Traurig in place and stead of rothwell, Figg Ernst & Manbeck by Judge Consuelo B. Marshall. (yc, ) (Entered: 11/18/2004)
11/16/2004	61	Substitution of Attorney filed. in place and stead of attorney Edward M Jordan by Judge Consuelo B. Marshall. (yc, ) (Entered: 11/18/2004)

---

## US District Court Civil Docket

U.S. District - Colorado  
(Denver)

**1:05cv1866**

**Pod-Ners, Llc v. Mccarty et al**

This case was retrieved from the court on Tuesday, November 28, 2006

---

<b>Date Filed:</b>	<b>09/26/2005</b>	<b>Class Code:</b>	<b>STLMT, TERMED</b>
<b>Assigned To:</b>	<b>Judge Phillip S Figa</b>	<b>Closed:</b>	<b>Yes</b>
<b>Referred To:</b>	<b>Magistrate Judge Michael E Hegarty</b>	<b>Statute:</b>	<b>35:271</b>
<b>Nature of suit:</b>	<b>Patent (830)</b>	<b>Jury Demand:</b>	<b>Plaintiff</b>
<b>Cause:</b>	<b>Patent Infringement</b>	<b>Demand Amount:</b>	<b>\$0</b>
<b>Lead Docket:</b>	<b>None</b>	<b>NOS Description:</b>	<b>Patent</b>
<b>Other Docket:</b>	<b>None</b>		
<b>Jurisdiction:</b>	<b>Federal Question</b>		

### Litigants

Pod-Ners, Llc A Colorado Limited Liability Company  
Plaintiff

Dwain Mccarty an Individual  
Defendant

### Attorneys

David James Lee  
[COR LD NTC]  
Lathrop & Gage, LC-Louisville, Co  
4845 Pearl East Circle  
#300  
Louisville, CO 80301  
USA  
720-931-3000  
Fax: 720-931-3001  
Email: Dlee@lathropgage.com

Keynen Jae Wall, Jr  
[COR LD NTC]  
Witwer, Oldenburg, Barry & Johnson, LLP  
822 7TH Street  
#760  
Greeley, CO 80631  
USA  
970-352-3161  
Fax: 970-352-3165  
Email: Kjwall@wobjlaw.com

Richard Sam Oldenburg  
[COR LD NTC]  
Witwer, Oldenburg, Barry & Bedingfield, LLP  
822 7TH Street

Mike Ahlberg an Individual  
Defendant

Dwain Mccarty Thirdparty  
Plaintiff

Red Beard Bean, Llc Thirdparty  
Defendant

Dwain Mccarty an Individual  
Counter Claimant

#760  
Greeley, CO 80631  
USA  
970-352-3161

John M Dudgeon  
[COR LD NTC]  
John M Dudgeon, Attorney at Law  
7180 West 14TH Avenue  
Lakewood, CO 80214  
USA  
303-233-7180  
Fax: 303-233-8033  
Email: Jmdudgeon@prodigy.net

Keynen Jae Wall, Jr  
[COR LD NTC]  
Witwer, Oldenburg, Barry & Johnson, LLP  
822 7TH Street  
#760  
Greeley, CO 80631  
USA  
970-352-3161  
Fax: 970-352-3165  
Email: Kjwall@wobjlaw.com

Richard Sam Oldenburg  
[COR LD NTC]  
Witwer, Oldenburg, Barry & Bedingfield, LLP  
822 7TH Street  
#760  
Greeley, CO 80631  
USA  
970-352-3161

David James Lee  
[COR LD NTC]  
Lathrop & Gage, LC-Louisville, Co  
4845 Pearl East Circle  
#300  
Louisville, CO 80301  
USA  
720-931-3000  
Fax: 720-931-3001  
Email: Dlee@lathropgage.com

Keynen Jae Wall, Jr  
[COR LD NTC]  
Witwer, Oldenburg, Barry & Johnson, LLP  
822 7TH Street  
#760  
Greeley, CO 80631  
USA  
970-352-3161  
Fax: 970-352-3165  
Email: Kjwall@wobjlaw.com

Richard Sam Oldenburg  
[COR LD NTC]  
Witwer, Oldenburg, Barry & Bedingfield, LLP  
822 7TH Street  
#760  
Greeley, CO 80631  
USA  
970-352-3161

Pod-Ners, Llc A Colorado Limited Liability Company  
Counter Defendant

David James Lee  
[COR LD NTC]  
Lathrop & Gage, LC-Louisville, Co  
4845 Pearl East Circle  
#300  
Louisville, CO 80301  
USA  
720-931-3000  
Fax: 720-931-3001  
Email: Dlee@lathropgage.com

Red Beard Bean, Llc  
Counter Claimant

David James Lee  
[COR LD NTC]  
Lathrop & Gage, LC-Louisville, Co  
4845 Pearl East Circle  
#300  
Louisville, CO 80301  
USA  
720-931-3000  
Fax: 720-931-3001  
Email: Dlee@lathropgage.com

Dwain Mccarty  
Counter Defendant

Mike Ahlberg an Individual Cross  
Claimant

John M Dudgeon  
[COR LD NTC]  
John M Dudgeon, Attorney at Law  
7180 West 14TH Avenue  
Lakewood, CO 80214  
USA  
303-233-7180  
Fax: 303-233-8033  
Email: Jmdudgeon@prodigy.net

Dwain Mccarty an Individual Cross  
Defendant

Keynen Jae Wall, Jr  
[COR LD NTC]  
Witwer, Oldenburg, Barry & Johnson, LLP  
822 7TH Street  
#760  
Greeley, CO 80631  
USA  
970-352-3161  
Fax: 970-352-3165  
Email: Kjwall@wobjlaw.com

Richard Sam Oldenburg  
[COR LD NTC]  
Witwer, Oldenburg, Barry & Bedingfield, LLP  
822 7TH Street  
#760  
Greeley, CO 80631  
USA  
970-352-3161

Date	#	Proceeding Text
09/26/2005	1	COMPLAINT and demand for jury trial against all defendants ( Filing fee \$ 250, Receipt Number 263108) Summons Issued, filed by Pod-Ners, LLC. (Attachments: # 1 Exhibit 1, attachments# 2 Exhibit 2, patent form# 3 Civil Cover Sheet # 4 Receipt)(bpm, ) (Entered: 09/27/2005)
09/27/2005	2	MEMORANDUM RETURNING CASE for reassignment by Judge Matsch. (bpm, ) (Entered: 09/28/2005)
09/28/2005	3	LETTER REASSIGNING CASE. Case reassigned to Judge Phillip S. Figa for all further



proceedings. Judge Richard P. Matsch is no longer assigned to case. (bpm, ) (Entered: 09/28/2005)

10/07/2005 4 AMENDED COMPLAINT against all defendants, filed by Pod-Ners, LLC.(Lee, David) (Entered: 10/07/2005)

10/11/2005 5 LETTER re: 4 Amended Complaint attaching Exhibit 1 by Plaintiff Pod-Ners, LLC. (Attachments: # 1 Exhibit 1 to the Amended Complaint)(Lee, David) (Entered: 10/11/2005)

10/19/2005 6 SUMMONS Returned Executed by Pod-Ners, LLC. Dwain McCarty served on 10/14/2005, answer due 11/3/2005. (Lee, David) (Modified on 10/25/2005 to correct filer from defendant to plaintiff)(gms, ). (Entered: 10/19/2005)

10/19/2005 7 SUMMONS Returned Executed by Pod-Ners, LLC. Mike Ahlberg served on 10/14/2005, answer due 11/3/2005. (Lee, David) (Entered: 10/19/2005)

10/25/2005 8 Docket Annotation re: 6 Summons Returned Executed. Docket entry modified to correct the filer to be the plaintiff instead of the defendant. Text only entry - no document attached. (gms, ) (Entered: 10/25/2005)

10/25/2005 9 CORPORATE DISCLOSURE STATEMENT by Plaintiff Pod-Ners, LLC. (Lee, David) (Entered: 10/25/2005)

11/01/2005 10 ANSWER to Amended Complaint by Mike Ahlberg.(Dudgeon, John) (Entered: 11/01/2005)

11/14/2005 11 ANSWER to Amended Complaint, THIRD PARTY COMPLAINT against Red Beard Bean, LLC, COUNTERCLAIM against Pod-Ners, LLC by Dwain McCarty.(Wall, Keynen) (Entered: 11/14/2005)

11/18/2005 12 ORDER: Scheduling Conference set for 12/15/2005 08:15 AM in Courtroom A 602 before Judge Phillip S. Figa. Signed by Judge Phillip S. Figa on 11/18/05. (emksl, ) (Entered: 11/18/2005)

12/05/2005 13 Reply to Counterclaim and ANSWER to Third Party Complaint by Pod-Ners, LLC, Red Beard Bean, LLC.(Lee, David) (Entered: 12/05/2005)

12/09/2005 14 Proposed Scheduling Order by Plaintiff Pod-Ners, LLC, ThirdParty Defendant Red Beard Bean, LLC, Counter Claimant Dwain McCarty, Counter Defendant Pod-Ners, LLC, ThirdParty Plaintiff Dwain McCarty, Defendants Dwain McCarty, Mike Ahlberg. (Lee, David) (Entered: 12/09/2005)

12/14/2005 15 Plaintiff Pod-Ner's Reply to Counterclaim and Red Beard Bean's ANSWER to Third Party Complaint Amended to add, COUNTERCLAIM against Dwain McCarty by Pod-Ners, LLC, Red Beard Bean, LLC.(Lee, David) (Entered: 12/14/2005)

12/15/2005 16 Minute Entry-Courtroom Minutes for proceedings held before Judge Phillip S. Figa : Scheduling Conference held on 12/15/2005. Discovery due by 5/19/2006. Dispositive Motions due by 6/9/2006. Final Pretrial Conference set for 7/25/2006 at 09:00 AM before Judge Phillip S. Figa. ORDER: Case referred to Magistrate O. Edward Schlatter for the purpose of conducting Settlement Conferences.(Court Reporter Darlene Martinez) (psfcd) (Entered: 12/15/2005)

12/15/2005 17 MINUTE ORDER: Settlement Conference set for 3/16/2006 01:30 PM before Magistrate Judge O. Edward Schlatter, by Magistrate Judge O. Edward Schlatter on 12/15/05. (emksl, ) (Entered: 12/15/2005)

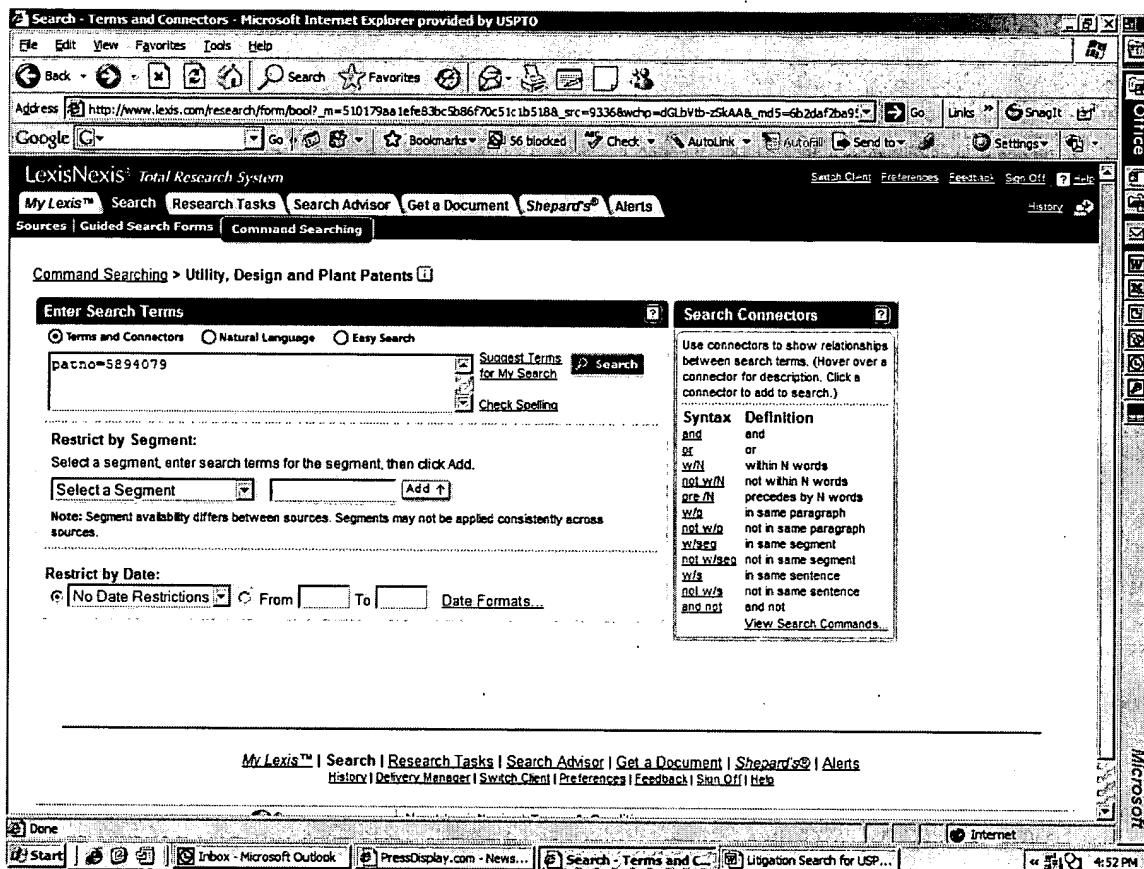
12/15/2005 18 ORDER REFERRING CASE (Settlement Purposes Only) to Magistrate Judge O. Edward Schlatter by Judge Figa. (emksl, ) (Entered: 12/16/2005)

12/22/2005 19 Proposed Scheduling Order AMENDED by Plaintiff Pod-Ners, LLC, ThirdParty Defendant Red Beard Bean, LLC, Counter Claimants Dwain McCarty, Red Beard Bean, LLC, Counter Defendants Pod-Ners, LLC, Dwain McCarty, ThirdParty Plaintiff Dwain McCarty, Defendants Dwain McCarty, Mike Ahlberg. (Lee, David) (Entered: 12/22/2005)

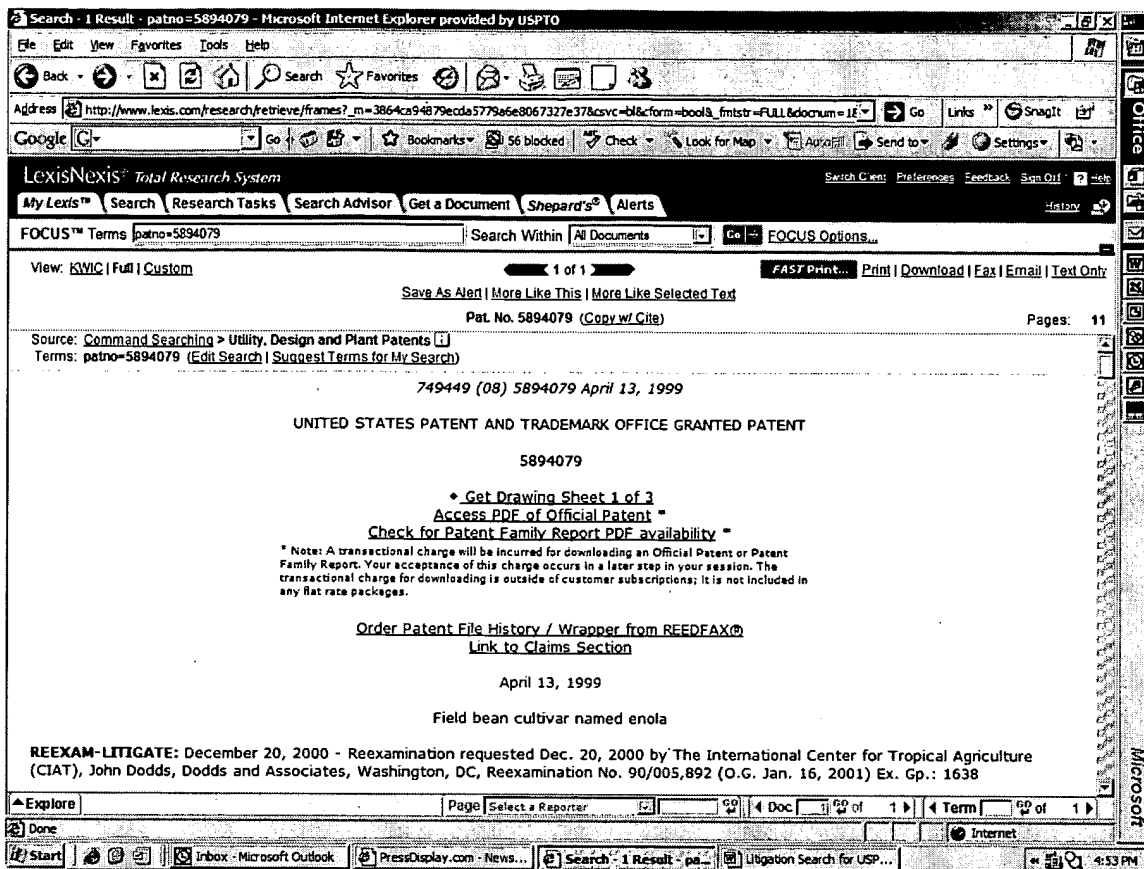
12/23/2005 20 Amended SCHEDULING ORDER: Discovery due by 5/19/2006. Dispositive Motions due by 6/9/2006. Settlement Conference set for 3/16/2006 01:30 PM before Judge Phillip S. Figa. Final Pretrial Conference set for 7/24/2006 09:00 AM before Judge Phillip S. Figa. Final Pretrial Order shall be prepared by the parties and submitted to the court no later than five days before the final pretrial conference. Signed by Judge Phillip S. Figa on 12/22/05. (emksl, ) (Entered: 12/23/2005)

12/23/2005)

- 12/30/2005 21 Reply and ANSWER to Counterclaim by Dwain McCarty.(Wall, Keynen) (Entered: 12/30/2005)
- 01/31/2006 22 MOTION to Amend/Correct/Modify 10 Answer to Amended Complaint by Defendant Mike Ahlberg. (Attachments: # 1 Proposed Document Amended Answer of Mike Ahlberg and Cross Claim)(Dudgeon, John) (Entered: 01/31/2006)
- 02/09/2006 23 REASSIGNING MAGISTRATE JUDGE. Upon the retirement of Magistrate Judge O. Edward Schlatter, this case has been reassigned and is now referred to Michael E. Hegarty, effective February 15, 2006. All future pleadings should reference Magistrate Judge Hegarty at the end of the civil action number (such as 05-cv-00500-LTB-MEH). The dates and times for all previously scheduled matters will be maintained and will now be handled by Magistrate Judge Hegarty in Courtroom A601. His chambers are located in Room A651. His telephone number is 303-844-4507. (Text only entry - no document attached) (gms, ) (Entered: 02/09/2006)
- 03/13/2006 24 ORDER granting Defendant Mike Ahlberg's 22 Motion to Amend Answer to Add Cross Claim, deemed filed as of today's date. Signed by Judge Phillip S. Figa on 03/13/06. (rlp, ) (Entered: 03/14/2006)
- 03/13/2006 25 AMENDED ANSWER of Mike Ahlberg and CROSSCLAIM against Dwain McCarty by Defendant Mike Ahlberg. (rlp, ) (Entered: 03/14/2006)
- 03/16/2006 26 Minute Entry for proceedings held before Judge Michael E. Hegarty : Settlement Conference held on 3/16/2006, settlement was reached, settlement documents due by 03/30/06, record was made. (rlp, ) (Entered: 03/17/2006)
- 03/17/2006 27 Courtroom Minute Entry for proceedings held before Judge Michael E. Hegarty : Settlement Conference held on 3/17/2006, All further settings are VACATED, Plaintiff to provide defendant with consent Decree by 03/23/06, parties to submit Stipulated Motion for Dismissal with Prejudice by 03/31/06, (Court Reporter FTR - Cathy Coomes.) (rlp, ) (Entered: 03/17/2006)
- 03/17/2006 28 Utility Setting Deadlines: Dismissal Paper due by 3/31/2006. Text only entry - no document attached. (rlp, ) (Entered: 03/17/2006)
- 03/31/2006 29 STATUS REPORT by Cross Defendant Dwain McCarty, Plaintiff Pod-Ners, LLC, ThirdParty Defendant Red Beard Bean, LLC, Counter Claimants Dwain McCarty, Red Beard Bean, LLC, Counter Defendants Pod-Ners, LLC, Dwain McCarty, ThirdParty Plaintiff Dwain McCarty, Defendants Dwain McCarty, Mike Ahlberg, Cross Claimant Mike Ahlberg. (Attachments: # 1 Exhibit A# 2 Exhibit B# 3 Exhibit C# 4 Exhibit D)(Lee, David) (Entered: 03/31/2006)
- 04/05/2006 30 MINUTE ORDER setting Telephonic Status Conference for 4/7/2006 10:00 AM before Magistrate Judge Michael E. Hegarty, regarding the settlement conference held 03/16/06, by Judge Michael E. Hegarty on 04/05/06. (rlp, ) (Entered: 04/05/2006)
- 04/07/2006 31 Minute Entry for proceedings held before Magistrate Judge Michael E. Hegarty: Status Conference held on 4/7/2006. Mr. Lee is directed to prepare the Consent Decree. By separate Minute Order, the Court will set a new date for settlement papers to be submitted to the Court. (Court Reporter FTR - C. Coomes.) (mehcd) (Entered: 04/07/2006)
- 04/07/2006 32 MINUTE ORDER Consent decree is due 4/19/06, by Judge Michael E. Hegarty on 4/7/06. (gms, ) (Entered: 04/07/2006)
- 04/19/2006 33 STATUS REPORT (SECOND) by Plaintiff Pod-Ners, LLC, ThirdParty Defendant Red Beard Bean, LLC, Counter Defendant Pod-Ners, LLC, Counter Claimant Red Beard Bean, LLC. (Attachments: # 1 Exhibit A)(Lee, David) (Entered: 04/19/2006)
- 04/28/2006 34 STIPULATION of Dismissal of Case With Prejudice by Cross Defendant Dwain McCarty, Plaintiff Pod-Ners, LLC, ThirdParty Defendant Red Beard Bean, LLC, Counter Claimants Dwain McCarty, Red Beard Bean, LLC, Counter Defendants Pod-Ners, LLC, Dwain McCarty, ThirdParty Plaintiff Dwain McCarty, Defendants Dwain McCarty, Mike Ahlberg, Cross Claimant Mike Ahlberg. (Attachments: # 1 Exhibit A)(Lee, David) (Entered: 04/28/2006)
- 05/05/2006 35 REPORT on the filing or determination of an action mailed to Commissioner of Patents. (mjg, ) (Entered: 05/05/2006)



Searched the Utility, Design and Plant Patents.



Lexis lists litigation at the top of its patents; Three cases listed:  
NOTICE OF LITIGATION

Pod-Ners, L.L.C. v. Tutuli Produce Corporation and Rebecca Gilliland, Filed Oct. 5, 1999, D.C. C.D. California, Doc. No. 99-10172(CBM)

Order by Judge Marshall granting plf's motion to stay pending resolution of US Supreme CRT & US Patent proceedings. MD- JS-6 (Ent 8-20-01) mld ntcs. [See decided case below]

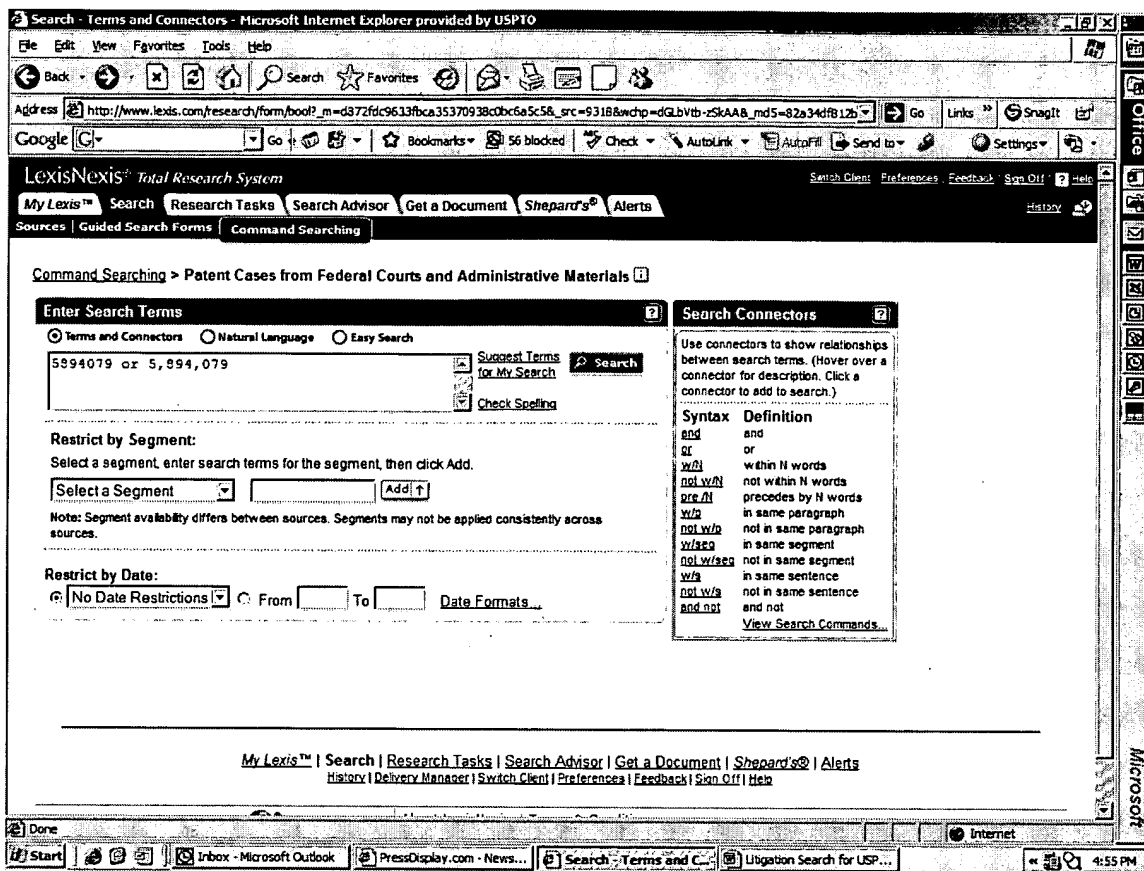
NOTICE OF LITIGATION

Pod-Ners, LLC v. McCarty et al, Filed September 26, 2005, D.C. Colorado, Doc. No. 1:05cv1866 [See dockets above]

9/28/2005

NOTICE OF LITIGATION

Pod-Ners LLC v. Tutuli Produce Corp, et al, Filed October 5, 1999, D.C. C.D. California, Doc. No. 2:99cv10172 [See dockets above]



Searched the Federal Courts and Administrative Materials.



**2001 U.S. Dist. LEXIS 25945**

**Source:** Patent Cases from Federal Courts and Administrative Materials

**Search Terms:** 5894079 or 5,894,079

**Time of Request:** Tuesday, November 28, 2006 16:57:28 EST

1 of 1 DOCUMENT

**POD-NERS, LLC, Plaintiff v. TUTULI PRODUCE CORPORATION  
and REBECCA GILLILAND, Defendants**

**No. CV 99-10172 CBM(Mcx)**

**UNITED STATES DISTRICT COURT FOR THE CENTRAL  
DISTRICT OF CALIFORNIA, WESTERN DIVISION**

**2001 U.S. Dist. LEXIS 25945**

**August 17, 2001, Decided**

**August 17, 2001, Filed**

**CASE SUMMARY:**

**PROCEDURAL POSTURE:** Plaintiff patent holder sued defendants, a corporation and its president, for allegedly infringing the patent holder's patent involving a bean that had a seed coat with a unique yellow color. The corporation and its president asserted several counterclaims, including one seeking declaratory relief regarding invalidity and non-infringement of the patent. The patent holder filed a motion to stay proceedings.

**OVERVIEW:** The patent holder sought to stay proceedings because the action would be affected by proceedings pending in the U.S. Patent and Trademark Office (PTO) and in the United States Supreme Court. The Supreme Court case involved a determination of whether the Plant Variety Protection Act preempted utility patents claiming plant/seed varieties. If the Supreme Court found such preemption, it would render the patent at issue invalid. The PTO was conducting reexamination and reissue proceedings related to the patent at issue. The court concluded that the patent holder would be prejudiced if forced to participate in expensive discovery on issues that might be resolved before the Supreme Court or PTO. The court concluded that the benefits of simplifying the issues before the court outweighed any potential hardship to the corporation and its president resulting from the stay. Specifically, staying the action pending the resolution of the Supreme Court and PTO proceedings could substantially reduce the number of legal issues before the court, result in the narrowing of discovery for the parties, and minimize the need to reconsider legal issues in light of decisions by the Supreme Court and PTO.

**OUTCOME:** The court granted the patent holder's motion for a stay of proceedings.

**LexisNexis(R) Headnotes**

***Civil Procedure > Judgments > Entry of Judgments > Stays of Proceedings > General Overview  
Governments > Courts > Authority to Adjudicate***

[HN1] A court has discretion to stay proceedings in an exercise of its inherent authority over the management of its docket.

***Civil Procedure > Judgments > Entry of Judgments > Stays of Proceedings > General Overview***

[HN2] In the context of determining whether to stay proceedings, the United States Court of Appeals for the Ninth Circuit has enumerated competing interests which must be weighed, including: possible damage resulting from the stay, hardship a party may suffer in being required to go forward, the orderly course of justice measured in terms of the simplifying or complicating of issues, and proof and questions of law which could be expected to result from a stay.

**COUNSEL:** [\*1] For Pod-Ners LLC, Plaintiff: Cynthia A Lock, McDermott Will & Emery, Los Angeles, CA; Daniel N Fishman, David J Lee, Chrisman Bynum & Johnson, Boulder, CO; Joon M Khang, Oppenheimer Wolff & Donnelly, Los Angeles, CA; Mark P Wine, McDermott Will & Emery, Los Angeles, CA.

For Tutuli Produce Corp Inc, Rebecca Gilliland, Defendants: Andrew Eliseev, Greenberg Traurig, Santa Monica, CA; Kathryn L Clune, Mark Lee Hogge, Greenberg Traurig, Washington, DC; Mark S Lee, Manatt Phelps & Phillips, Los Angeles, CA; Robert J Jondle, Figg Ernst & Kurz, Omaha, NE.

For Tutuli Produce Corp Inc, Counter Claimant: Andrew Eliseev, Greenberg Traurig, Santa Monica, CA; Kathryn L Clune, Mark Lee Hogge, Greenberg Traurig, Washington, DC; Mark S Lee, Manatt Phelps & Phillips, Los Angeles, CA; Robert J Jondle, Figg Ernst & Kurz, Omaha, NE.

For Pod-Ners LLC, Counter Defendant: Joon M Khang, Oppenheimer Wolff & Donnelly, Los Angeles, CA; Mark P Wine, McDermott Will & Emery, Los Angeles, CA; Cynthia A Lock, McDermott Will & Emery, Los Angeles, CA; Daniel N Fishman, David J Lee, Chrisman Bynum & Johnson, Boulder, CO.

**JUDGES:** CONSUELO B. MARSHALL, UNITED STATES DISTRICT JUDGE.

**OPINION BY:** CONSUELO B. MARSHALL

**OPINION:** [\*2]

**ORDER** Granting Plaintiff's Motion for Stay Pending Resolution of U.S. Supreme Court and U.S. Patent Office Proceedings

The matter before the Court, the Honorable Consuelo B. Marshall, United States District Judge presiding, is Plaintiff Pod-Ners, L.L.C.'s Motion for Stay Pending Resolution of U.S. Supreme Court and U.S. Patent Office Proceedings. The Court deemed the matter submitted without oral argument as of July 30, 2001. Upon consideration of the papers submitted, the Court grants



Plaintiff's Motion for Stay Pending Resolution of U.S. Supreme Court and U.S. Patent Office Proceedings.

## **JURISDICTION**

This action is before the Court pursuant to 35 U.S.C. § 101 *et seq.* and 28 U.S.C. §§ 1331, 1332, 1338.

## **BACKGROUND & PROCEDURAL HISTORY**

Plaintiff Pod-Ners, L.L.C., filed this patent infringement action against Tutuli Produce Corporation and its President, Rebecca Gilliland, on October 5, 1999. According to the Complaint, Plaintiff developed and sells a bean having a seed coat with a unique yellow color. Plaintiff's beans is protected by both (1) U.S. Letters Patent No. **5,894,079** entitled "Field Bean Cultivare Named [\*3] Enola" (hereinafter "'079 Patent"), and (2) Certificate No. 9700027 issued under the *Plant Variety Protection Act* (hereinafter "PVP Certificate"). The Complaint alleges that Defendants infringed the 079 Patent by selling yellow bean seed similar to the bean seed covered by the 079 Patent. n1

n1 The Complaint does not allege, at this time, that Defendants' bean seed infringes the PVP Certificate.

Defendants filed an Amended Answer and Counterclaim on November 8, 2000. The Amended Counterclaim seeks (1) declaratory relief regarding invalidity and non-infringement of the 079 Patent, (2) trade libel, (3) intentional interference with prospective economic advantage, (4) intentional interference with contractual relations, and (5) violation of *Section 43(a) of the Lanham Act*. The gravamen of Defendants' counterclaims is that Plaintiff's attempt to enforce an invalid patent has seriously interfered with Defendants' business.

Plaintiff filed the present Motion to Stay on June 28, 2001. Defendant's Opposition was [\*4] filed on July 23, 2001. Plaintiff's Reply was filed on July 30, 2001.

## **DISCUSSION**

[HN1] The Court has discretion to stay proceedings in an exercise of its inherent authority over the management of its docket. *Landis v. North American Co.*, 299 U.S. 248, 254, 81 L. Ed. 153, 57 S. Ct. 163 (1936). [HN2] The Ninth Circuit Court of Appeals has enumerated competing interests which must be weighed, including: possible damage resulting from the stay, hardship a party may suffer in being required to go forward, and the orderly course of justice measured in terms of the simplifying or complicating of issues, proof and questions of law which could be expected to result from a stay. *Filtrol Corp. v. Kelleher*, 467 F.2d 242, 244 (9th Cir. 1972), *cert. denied*, 409 U.S. 1110, 34 L. Ed. 2d 691, 93 S. Ct. 914 (1973).

Plaintiff argues that a stay is appropriate because a substantial portion of this action will be affected by proceedings pending before the U.S. Supreme Court and the U.S. Patent & Trademark Office. The Supreme Court, in *J.E.M. AG Supply, Inc. v. Pioneer Hi-Bred Int'l, Inc.*, is considering whether the Plant Variety Protection Act preempts utility patents claiming plant/seed varieties. The Supreme Court [\*5] is scheduled to hear oral arguments in the *J.E.M.* action on October 3, 2001. If the Supreme Court determines that the Act preempts utility patents for plant/seed varieties, the 079

Patent will be rendered invalid. The Supreme Court's decision will help resolve the underlying legal issue in Plaintiff's infringement claim and Defendants' claims for declaratory relief. Furthermore, the Supreme Court's decision would be helpful to narrowing the legal issues in Defendants' state aw tort claims which rely, in part, on an allegation that Plaintiff has attempted to enforce an invalid patent. Amended Counterclaims PP 24, 28.

The U.S. Patent & Trademark Office ("PTO") is currently conducting reexamination and reissue proceedings relating to Plaintiff's 079 Patent. Reexamination proceedings permit the PTO to reconsider issued patents in light of new information that was unknown to the PTO at the time the patent was issued. The International Center for Tropical Agriculture ("CIAT") filed a reexamination request relating to the 079 Patent, which was granted on February 6, 2001. CIAT is challenging the validity of each of the claims in the 079 Patent, including the claims at issue in this [\*6] action. Plaintiff initiated a reissue proceeding regarding the 079 Patent on January 31, 2001. Plaintiff seeks to add new and broader claims to the 079 Patent. The PTO merged the reissue and reexamination proceedings for the 079 Patent. Defendants argue that the average duration of a reexamination proceeding is approximately 18 months. (Defs.' Opp'n at 7.)

In the present action, the parties have engaged in some written discovery. However, Defendants seek to depose seventeen persons, some of whom are located in Mexico. Lee Decl. P 5, Ex. 1. Plaintiff submitted statistical evidence that discovery in patent infringement actions is costly. Lee Decl., Ex. 3. The Court finds that Plaintiffs would be prejudiced if forced to participate in expensive discovery on issues which might be resolved before the Supreme Court or PTO.

Defendants argue that they would be substantially prejudiced if this action were stayed. Defendants have been unable to sell beans since Plaintiff notified the bean industry of the 079 Patent and the PVP Certificate. (Gilliland Decl. P 9.) Furthermore, Defendants' suppliers in Mexico have begun to demand "prohibitive advanced payments" due to Plaintiff's allegation [\*7] of infringement. (*Id.*) Defendants do not quantify the amount of business lost nor do they provide evidence that such loss is due to Plaintiff's alleged conduct.

Defendants also argue that the Supreme Court and PTO proceedings will not address the validity of Plaintiff's PVP Certificate, which also protects Plaintiff's bean seed. However, the Complaint does not allege that Defendants violated or infringed upon Plaintiff's rights under the PVP Certificate.

The Court finds that staying the action pending the resolution of the Supreme Court and PTO proceedings may substantially reduce the number of legal issues before the Court, result in the narrowing of discovery for the parties and minimize the need to reconsider legal issues in light of decisions by the U.S. Supreme Court and PTO. The benefits of simplifying the issues before the Court outweigh the potential hardship resulting from the stay.

### **CONCLUSION**

Based on the foregoing, the Court **GRANTS** Plaintiff's Motion for Stay Pending Resolution of U.S. Supreme Court and U.S. PTO Proceedings.

**SO ORDERED.**

**DATE:** August 17, 2001

CONSUELO B. MARSHALL  
UNITED STATES DISTRICT JUDGE

Search - Terms and Connectors - Microsoft Internet Explorer provided by USPTO

File Edit View Favorites Tools Help

Address http://www.lexis.com/research/form/bool?\_m=20f2a864ed3c9230c66339919250cde&\_src=9316&wchp=dGLbVtb-z5AA&\_md5=d602e9068a

Google

LexisNexis® Total Research System

My Lexis™ Search Research Tasks Search Advisor Get a Document Shepard's® Alerts

Sources | Guided Search Forms | Command Searching

Command Searching > Patent, Trademark & Copyright Periodicals, Combined

Enter Search Terms

☒ Terms and Connectors ☐ Natural Language ☐ Easy Search

5894079 or 5,894,079

Suggest Terms for My Search

Search

Check Spelling

Restrict by Segment:

Select a segment, enter search terms for the segment, then click Add.

Select a Segment

Add

Note: Segment availability differs between sources. Segments may not be applied consistently across sources.

Restrict by Date:

☒ No Date Restrictions ☐ From To Date Formats

Search Connectors

Use connectors to show relationships between search terms. (Hover over a connector for description. Click a connector to add to search.)

Syntax	Definition
and	and
or	or
w/n	within N words
not w/n	not within N words
pre/n	precedes by N words
w/p	in same paragraph
not w/p	not in same paragraph
w/seg	in same segment
not w/seg	not in same segment
w/s	in same sentence
not w/s	not in same sentence
and not	and not

View Search Commands...

My Lexis™ | Search | Research Tasks | Search Advisor | Get a Document | Shepard's® | Alerts

History | Delivery Manager | Switch Client | Preferences | Feedback | Sign Off | Help

Done

Start

Inbox - Microsoft Outlook

PressDisplay.com - News...

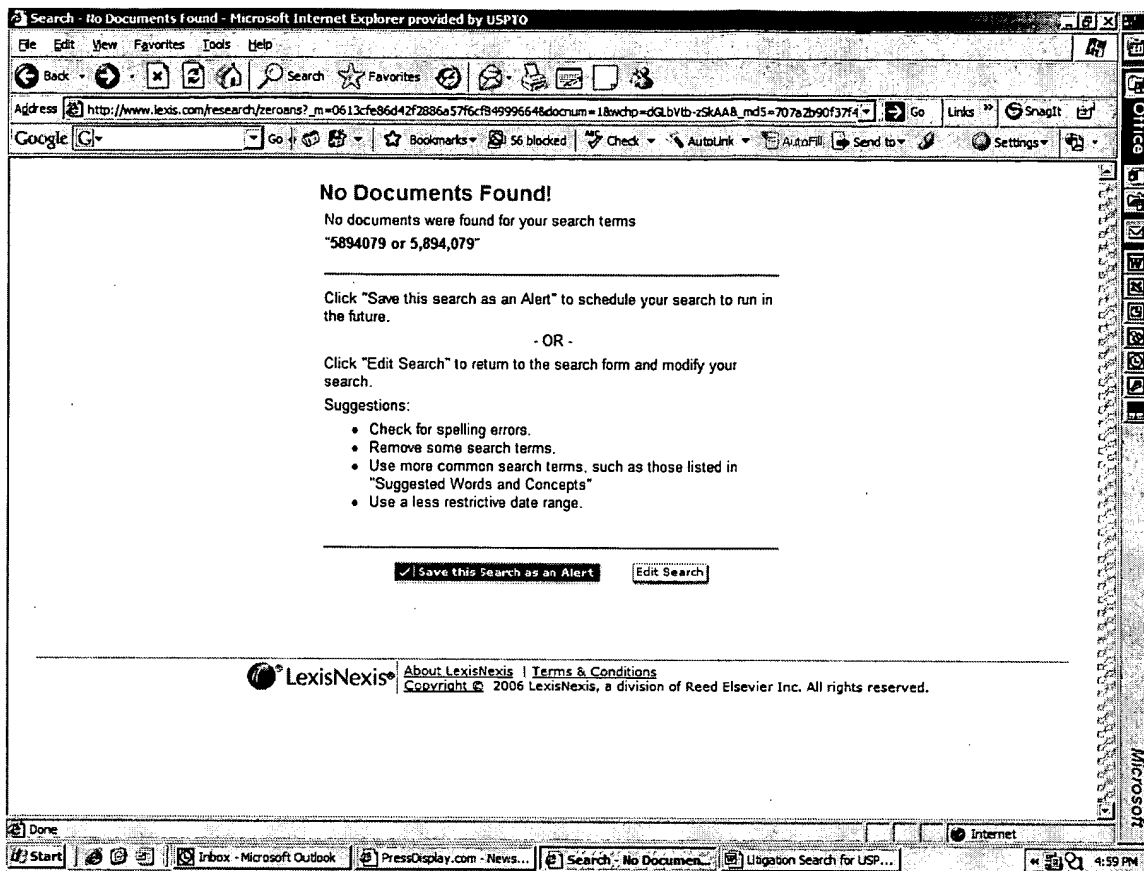
Search - Terms and C...

Utigation Search for USP...

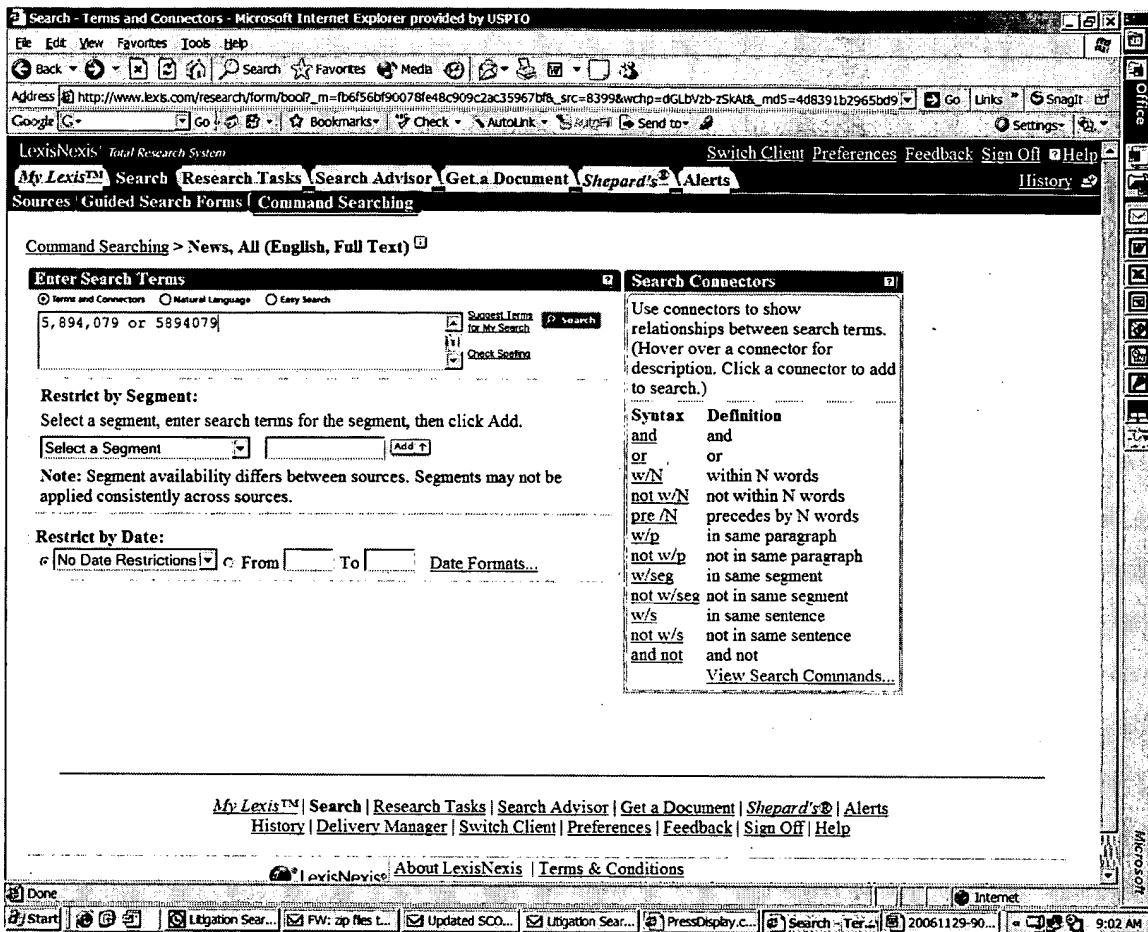
Internet

4:58 PM

Searched the IP periodicals database.



No documents were found.



Searched the LexisNexis all news sources database.

Search - 9 Results - 5,894,079 or 5894079 - Microsoft Internet Explorer provided by USPTO

File Edit View Favorites Tools Help

Back Forward Stop Home Search Favorites Media Print

Address http://www.lexis.com/research/retrieve/frames?\_m=7f801f6e7a2dd4390c226acab0117b2c&svc=bo&form=bo&\_fmtstr=XCTE&docnum=18... Go Links SnagIt

Google Go Bookmarks Check AutoLink Send to Settings

LexisNexis Total Research System Switch Client Preferences Feedback Sign Off Help

My Lexis Search Research Tasks Search Advisor Get a Document Shepard's Alerts History

FOCUS Terms 5,894,079 or 5894079 Search Within All Document FOCUS Options

View: Cite KWIC Full Custom 1-9 of 9 FAST Print Print Download Fax Email Text Only

Save As Alert Hide Hits

Source: Command Searching > News, All (English, Full Text)

Terms: 5,894,079 or 5894079 (Edit Search Suggest Terms for My Search)

Select for FOCUS or Delivery

1. Crop Science, May 1, 2004, No. 3, Vol. 44; Pg. 968; ISSN: 0011-183X, 9827 words, The genetic anatomy of a patented yellow bean; Plant Genetic Resources, Pallottini, L.; Garcia, E.; Kami, J.; Barcaccia, G.; Gepts, P.  
... awarded patent no. 5,894,079 for the yellow-seeded ...  
... named enola, No. 5,894,079 [Online] http://patft. ...  
... d = ptvt&s1 = 5,894,079&OS = 5,894,079&RS = 5,894,079 (verified 7 January ...
2. B.C. Business Magazine, November, 2003, v.31(11) N°03 pg 54-55; ISSN: 0849-481X, 5894079, 4435 words, Shattered: If disaster struck, would you be able to pick up the pieces and move forward? Inspiration from those who did, and survival tips for you, O'Brien, Vicki
3. All Regions, November 22, 2002, 3415 words, Patenting Genetically Engineered Plants - Herbert Smith, Herbert Smith, United Kingdom  
... US Patent No. 5,894,079 which can be located on the ...
4. The Record, September 15, 2002, Sunday, SK-BEANS, 1272 words, U.S. Dry Bean Production Business Gets Ugly, By Reed Fujii  
... a patent, No. 5,894,079, for the Enola bean. He ...
5. Latin Trade, August, 2001, 1342 words, Little, Yellow Different?, Laura Carlsen Los Mochis, Mexico  
... own patent, No. 5894079. Enola comes from his wife ...
6. Revista Latin Trade, August 1, 2001, No. 8, Vol. 9; Pg. 58; ISSN: 1087-0857, 1371 words, Pequeno y amarillo: un pequeno frijol, y su patente, generan una escaramuza fronteriza; Conexion, agricultura, Carlsen, Laura  
... su patente, numero 5894079. "Enola" es el ...
7. The New York Times, March 20, 2001 Tuesday Correction Appended, Late Edition - Final Section F: Column 2: Science Desk: Pg. ...

Page Select a Result 1 of 9 Doc 1 of 9 Term 1 of 9

Start Litigation Search... FW: zip files to S... Litigation Search... PressDisplay.com... Search - 9 Results 20061129-9000... 9:05 AM

Nine articles were found; 8 were relevant, and their summaries are below.

Source: News, All (English, Full Text)

Search Terms: 5,894,079 or 5894079

Time of Request: Wednesday, November 29, 2006 09:04:46 EST

1 of 9 DOCUMENTS

Copyright 2004 Gale Group, Inc.

ASAP

Copyright 2004 Crop Science Society of America

Crop Science

May 1, 2004

SECTION: No. 3, Vol. 44; Pg. 968; ISSN: 0011-183X

IAC-ACC-NO: 117117384

LENGTH: 9827 words

USP 5894079, Case: 90/005,892

Page 29 of 37

**HEADLINE:** The genetic anatomy of a patented yellow bean; Plant Genetic Resources

**BYLINE:** Pallottini, L.; Garcia, E.; Kami, J.; Barcaccia, G.; Gepts, P.

**BODY:**

In 1999, the U.S. PTO awarded patent no. **5,894,079** for the yellow-seeded cultivar Enola of common bean. The main claim of this patent is the yellow color of the seed coat of Enola. ...

...2. New York Times, New York.

Proctor, L. 1999. Field bean cultivar named enola, No. **5,894,079** [Online]  
[http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u/  
/netahtml/search-bool.html&r=1&f=G&1=50&col=AND&d=ptxt&s1=5,894,079&OS=5,894,079&RS=5,894,079](http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=/netahtml/search-bool.html&r=1&f=G&1=50&col=AND&d=ptxt&s1=5,894,079&OS=5,894,079&RS=5,894,079) (verified 7 January 2004).

Rivera-Ocasio, E., T.M. Aide, and W.O. McMillan. 2002. Patterns of genetic diversity and ...

3 of 9 DOCUMENTS

Copyright 2002 Mondaq Ltd.  
All Regions

November 22, 2002

**LENGTH:** 3415 words

**HEADLINE:** Patenting Genetically Engineered Plants - Herbert Smith

**SOURCE:** Herbert Smith, United Kingdom

**BODY:**

...Initiative on Modified Agricultural Crops - a cross -industry grouping in the UK.

19 US Patent No. **5,894,079** which can be located on the US PTO's website at [www.uspto.gov](http://www.uspto.gov).

20 For more information, please ...

4 of 9 DOCUMENTS

Copyright 2002 Knight Ridder/Tribune Business News  
Copyright 2002 The Record  
The Record

September 15, 2002, Sunday

**KR-ACC-NO:** SK-BEANS

**LENGTH:** 1272 words

**HEADLINE:** U.S. Dry Bean Production Business Gets Ugly

**BYLINE:** By Reed Fujii

**BODY:**

...obtained a plant variety protection certificate from the U.S. Department of Agriculture, and also won in 1999 a patent, No. **5,894,079**, for the Enola bean.

He established Delta, Colo.-based Pod-Ners, of which he is president, to provide the exclusive rights to license and market ...

5 of 9 DOCUMENTS

Copyright 2001 Freedom Magazines International, Inc.  
Latin Trade

August, 2001

**LENGTH:** 1342 words

**HEADLINE:** Little, Yellow Different?

**BYLINE:** Laura Carlsen Los Mochis, Mexico

**BODY:**

...balance in the United States.

Generations. What Proctor did to win his patent protection is spelled out in his own patent, No. **5894079**. Enola comes from his wife Pollys middle name. In 1994, the patent says, field beans that were yellow in color were ...

6 of 9 DOCUMENTS

Copyright 2001 Gale Group, Inc.  
ASAP  
Copyright 2001 Freedom Magazines, Inc.



August 1, 2001

**SECTION:** No. 8, Vol. 9; Pg. 58; ISSN: 1087-0857

**IAC-ACC-NO:** 94261704

**LENGTH:** 1371 words

**HEADLINE:** Pequeno y amarillo: un pequeno frijol, y su patente, generan una escaramuza  
fronteriza; Conexion; agricultura

**BYLINE:** Carlsen, Laura

**BODY:**

...Generaciones. Lo que Proctor hizo para conseguir la proteccion esta explicado en su patente,  
numero **5894079**. "Enola" es el segundo nombre de su esposa Polly. En 1994, dice la patente, se ...

7 of 9 DOCUMENTS

Copyright 2001 The New York Times Company  
The New York Times

March 20, 2001 Tuesday  
Correction Appended  
Late Edition - Final

**SECTION:** Section F; Column 2; Science Desk; Pg. 5

**LENGTH:** 1131 words

**HEADLINE:** Patent on Small Yellow Bean Provokes Cry of Biopiracy

**BYLINE:** By TIMOTHY PRATT

**DATELINE:** CALI, Colombia

**BODY:**

...called Enola, or at least that's what Larry Proctor, proprietor of Pod-ners L.L.C. and holder of  
United States Patent No. **5,894,079**, calls it, after his wife's middle name.

But Dr. Voss, bean importers, breeders and genetics specialists across ...

**CORRECTION-DATE:** March 29, 2001

**CORRECTION:**

An article in Science Times on March 20 about a patent case that has provoked accusations of bio piracy misstated the distinction held by a patent that heightened emotions about patenting living organisms and misstated the issue date. The patent, on a mouse with genes that created cancer tumors, was the first of a genetically engineered mammal, not of a living organism. The patent was issued in 1988, not 1980.

8 of 9 DOCUMENTS

Copyright 2000 The Denver Post  
All Rights Reserved  
The Denver Post

March 21, 2000 Tuesday 2D EDITION

**SECTION:** BUSINESS; Pg. C-01

**LENGTH:** 1378 words

**HEADLINE:** Litigation sprouts up over claim to invent bean

**BYLINE:** By Jonathan Friedland, The Wall Street Journal,

**BODY:**

...in the United States a yellow bean that one calls the Mayacoba and the other calls United States Patent No. **5,894,079**.

And that is why they are enemies.

9 of 9 DOCUMENTS

Copyright 2000 Omega Communications, Inc.  
Intellectual Property Today

February, 2000

**SECTION:** RFC EXPRESS TM; Recently Filed Patent Cases; Pg. 20

**LENGTH:** 1263 words

**BODY:**

...395/614

99-10172 -- Filed: 991005

POD-NERS LLC

vs.

TUTULI PRODUCE CORP. & REBECCA GILLILAND

**5,894,079-800/200**

99-8258 -- Filed: 991217

PRECOTE USA INC.

vs.

BRADLEY COATING INC.

99-1747 -- ...

# Questel-Orbit

Questel-Orbit QWeb - Microsoft Internet Explorer provided by USPTO

File Edit View Favorites Tools Help

Back Forward Stop Search Favorites Home

Address [https://qwebord.questel.fr/mag2000/en/fogon\\_index.html](https://qwebord.questel.fr/mag2000/en/fogon_index.html) Go Links SnagIt

Google Go Bookmarks 56 blocked Check AutoLink AutoFill Send to Settings

Questel-Orbit Databases Search Assist Help & Services Search History Scroll Session Logout 00:00:11

## PlusPat

Help Extended Family Search Advanced Menu

Boolean Search

Title

Patent Assignee :

Inventor(s) :

Patent Number(s) : 5894079

Priority Number(s) :

Application Number(s) :

Intl. Classification code: Lookup

European Classification Code: Lookup

US Classification Code: Lookup

Publication Date From January Earliest

Back

Done Start Inbox - Microsoft Outlook PressDisplay.com - News... Questel-Orbit QWeb... Litigation Search for USP... 5:00 PM

Searched the file PLUSPAT; Results attached below.

## Questel-Orbit Results Current session 28/11/2006

Query/Command : ..ba pluspat; (5894079)/PN /XPN

Selected file: PLUSPAT

Query/Command : PRT SS 1 MAX 1 LEGALALL

1 / 1 PLUSPAT - ©QUESTEL-ORBIT - image

Patent Number :

US5894079 A 19990413 [US5894079]

Title :

(A) Field bean cultivar named enola

Inventor(s) :

(A) PROCTOR LARRY M (US)

Application Nbr :

US74944996 19961115 [1996US-0749449]

1 / 1 LGST - ©EPO

Patent Number :

US5894079 A 19990413 [US5894079]

Application Number :

US74944996 19961115 [1996US-0749449]

**Action Taken :**

19990504 US/AS02-A  
ASSIGNMENT OF ASSIGNOR'S INTEREST  
OWNER: POD-NERS, L.L.C. 269 HWY. 348 DELTA, COLORADO 8141; EFFECTIVE  
DATE: 19990409

19990504 US/AS02-A  
ASSIGNMENT OF ASSIGNOR'S INTEREST  
OWNER: PROCTOR, LARRY; EFFECTIVE DATE: 19990409

20010116 US/RR-A [+]  
REQUEST FOR REEXAMINATION FILED  
EFFECTIVE DATE: 20001220

20010522 US/CC-A  
CERTIFICATE OF CORRECTION

**Update Code :**

2003-22

1 / 1 CRXX - ©CLAIMS/RRX

**Patent Number :**

5,894,079 A 19990413 [US5894079]

**Patent Assignee :**

Proctor, Larry M

**Actions :**

19990504 REASSIGNED  
ASSIGNMENT OF ASSIGNORS INTEREST

Assignor: PROCTOR, LARRY DATE SIGNED: 04/09/1999

Assignee: POD-NERS, L.L.C. 269 HWY. 348 DELTA COLORADO 81416

Reel 009742/Frame 0430

Contact: ROCKEY, MILNAMOW & KATZ, LTD. LISA V. MUELLER 180 NORTH STETSON  
AVENUE, SUITE 4700 TWO PRUDENTIAL PLAZA CHICAGO, IL 60601

20001220 REEXAMINATION REQUESTED  
ISSUE DATE OF O.G.: 20010116  
REEXAMINATION REQUEST NUMBER: 90/005892  
The International Center for Tropical Agriculture (CIAT), John Dodds,  
Dodds and Associates, Washington, DC

20010131 REISSUE REQUESTED  
ISSUE DATE OF O.G.: 20030429  
REISSUE REQUEST NUMBER: 09/773303  
EXAMINATION GROUP RESPONSIBLE FOR REISSUEPROCESS: 1638

Reissue Patent Number:

1 / 2 LITA - ©Thomson Derwent

**Accession Number :**

P2006-01-23

**File Segment :**

PATENT (P)

**Patent Number :**  
US5894079 19990413 (Utility)  
**Plaintiffs :**  
Pod-Ners LLC  
**Defendants :**  
McCarty, Dwain et al  
**Court :**  
CO  
**Docket Number :**  
05-cv-01866 rpm-oes  
**Filing Date :**  
2005-09-26  
**Action :**  
A complaint was filed

2 / 2 LITA - ©Thomson Derwent  
**Accession Number :**  
P2002-07-67  
**File Segment :**  
PATENT (P)  
**Patent Number :**  
US5894079 19990413 (Utility)  
**Plaintiffs :**  
Pod-ners LLC  
**Defendants :**  
Tutuli Produce Corporation;  
Gilliland Rebecca  
**Court :**  
CA, Central Dist.  
**Docket Number :**  
99-10172 (CBM)  
**Filing Date :**  
1999-10-05  
**Action Date :**  
2001-08-20  
**Action :**  
Order by Judge Marshall granting plaintiff's motion to stay pending  
resolution of US Supreme Court & US Patent proceedings.